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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/545,524	04/07/2000	Seth Haberman	2000522.124-US1	9763

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EXAMINER	
BORISSOV, IGOR N	

ART UNIT	PAPER NUMBER
3639	

DATE MAILED: 08/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/545,524	HABERMAN ET AL.	
	Examiner	Art Unit	
	Igor Borissov	3639	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *16 May 2006*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1 and 4-12* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1 and 4-12* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

IGOR N. BORISSOV
PRIMARY EXAMINER

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Response to Amendment

Amendment received on 5/16/2006 is acknowledged and entered. Claims 1, 4, 5, 6, 8, 9 11 and 12 have been amended. Claims 2 and 3 have been cancelled. Claims 1 and 4-12 are currently pending in the application.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 4-6 and 9-10 are rejected under 35 U.S.C. 102(e) as being anticipated by Stanback, Jr. et al. (US 6,449,657).

Stanback, Jr. et al. (Stanback) teaches a method system for providing targeted advertisement over the Internet based on users demographic profiles, comprising:

Claims 1 and 9,

creating at least one default message of a personalized message (C. 12, L. 65 – C. 13, L. 2);

delineating general characteristics of members of intended audience and creating a set of target entity qualification data factors for use in database searches to acquire a list of entities to which a personalized message will be distributed (C. 12, L. 43-55);

creating an entity profile template including a substantially complete definition of information about each of said entities that is to be acquired by said database search (Fig. 10, item 1064; C. 19, L. 7-12; C. 22, L. 9-15);

using said entity profile template for generation of target entities profiles and status (C. 11, L. 11-16);

constructing a message template (C. 11, L. 17-22; C. 20, L. 51-53);

constructing a message resource library (C. 20, L. 51-53);

wherein said constructed message template includes a plurality of media segment slots including audio and video codes (Fig. 7, items 736, 740; C. 16, L. 8-12, 29-31; C. 20, L. 51-53, 58-60); and

wherein said message resource library includes a plurality of media segments, each media segment corresponding to one of said media segment slots of said message template (C. 20, L. 51-53, 58-60).

Claim 4. Said method, wherein several media segments correspond to a same one of said media segment slots of said message template (C. 13, L. 9-11).

Claim 5. Said method, wherein said message resource library includes media segments created specifically for said message campaign (C. 20, L. 51-53, 58-60).

Claim 6. Said method, further comprising: defining a distribution channel selection, for distributing created personalized messages to target entities (e-mail) (C. 5, L. 6-9).

Claim 10. Said system, wherein a plurality of different message templates are constructed (C. 11, L. 17-22; C. 20, L. 51-53).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Stanbach, Jr. et al. in view of Chen et al. (US 6,857,024).

Claim 7. Stanbach teaches all the limitations of Claim 7, except specifically teaching defining interactive query responses for acquiring additional information about said target entity.

Chen et al. (Chen) teaches a method for generating consumer profiles and providing on-line targeted advertising to said consumers based on said generated consumer profiles, including determining whether the user has responded to the last question or provided all of the required information for generating a consumer profile. If additional information is required, the Internet device 14 prompts the consumer to enter additional responses (C. 10, L. 57-64).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Stanbach to include defining interactive query responses for acquiring additional information about said target entity, as disclosed in Chen, because it would advantageously allow to further delineate said general characteristics of said members of intended audience, thereby creating precise targeted advertisement.

Claims 8 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stanbach, Jr. et al. in view of Gerace (U. S. 5,991,735).

As per **Claims 8 and 11**, Stanbach teaches all the limitations of Claims 8 and 11, including defining environmental status factors (targeting consumers in a particular geographic location, such as local movie theatre, C. 15, L.3-5), except specifically teaching that said environmental status factors are updated at the time the personalized message is transmitted.

Gerace teaches a method and apparatus for delivering targeted advertisements based on psychographic and demographic profiles of appropriate audience, including displaying theater schedules including information regarding show times, where performing, length in time and location of theaters (environmental status factors), wherein when a user selects said advertisement, the up-to-date information is displayed (C. 2, L. 28-42; C. 4, L. 35-37; C. 10, L . 42-47).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Stanbach to include that at the time the personalized message is transmitted said environmental status factors information is up-to-date information, as disclosed in Gerace, because it would advantageously allow a user to select an appropriate theater based on user's preferences in time and the location of the show.

Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Stanbach, Jr. et al. in view of Chen et al. and further in view of Gerace.

Claim 12. Stanbach teaches said method, comprising:

encoding at least one default message of a personalized message (C. 12, L. 65 – C. 13, L. 2);

delineating general characteristics of members of intended audience and creating a set of target entity qualification data factors for use in database searches to acquire a list of entities to which a personalized message will be distributed (C. 12, L. 43-55);

creating an entity profile template including a substantially complete definition of information about each of said entities that is to be acquired by said database search (Fig. 10, item 1064; C. 19, L. 7-12; C. 22, L. 9-15);

using said entity profile template for generation of target entities profiles and status (C. 11, L. 11-16);

constructing a message template (C. 11, L. 17-22; C. 20, L. 51-53);

constructing a message resource library (C. 20, L. 51-53).

defining a distribution channel selection (C. 5, L. 6-9);

defining delivery window specification (C. 10, L. 10);

constructing a message template (C. 11, L. 17-22; C. 20, L. 51-53);

constructing a message resource library (C. 20, L. 51-53),

wherein said constructed message template includes a plurality of media segment slots including audio and video codes (Fig. 7, items 736, 740; C. 16, L. 8-12, 29-31); and

wherein said message resource library includes a plurality of media segments, each media segment corresponding to one of said media segment slots of said message template (C. 20, L. 51-53, 58-60).

Stanbach does not specifically teach defining interactive query responses, for acquiring additional information about said target entity. Also, while Stanbach teaches defining environmental status factors (targeting consumers in a particular geographic location, such as local movie theatre, C. 15, L.3-5), Stanbach does not specifically teach that said environmental status factors are updated at the time the personalized message is transmitted.

Chen teaches said method for generating consumer profiles and providing on-line targeted advertising to said consumers based on said generated consumer profiles, including determining whether the user has responded to the last question or provided all of the required information for generating a consumer profile. If additional information is required, the Internet device 14 prompts the consumer to enter additional responses (C. 10, L. 57-64).

Gerace teaches a method and apparatus for delivering targeted advertisements based on psychographic and demographic profiles of appropriate audience, including displaying theater schedules including information regarding show times, where performing, length in time and location of theaters (environmental status factors), wherein when a user selects said advertisement, the up-to-date information is displayed (C. 2, L. 28-42; C. 4, L. 35-37; C. 10, L . 42-47).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Stanbach to include defining interactive query responses for acquiring additional information about said target entity, as disclosed in Chen, because it would advantageously allow to further delineate said general characteristics of said members of intended audience, thereby creating precise targeted advertisement.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Stanbach and Chen to include that at the time the personalized message is transmitted said environmental status factors information is up-to-date information, as disclosed in Gerace, because it would advantageously allow a user to select an appropriate theater based on user's preferences in time and the location of the show.

Response to Arguments

Applicant's arguments filed 5/16/2006 have been fully considered but they are not persuasive.

In response to applicant's argument that Stanbach does not teach a message template, it is note that Stanbach explicitly teaches said feature. Specifically, Stanbach teaches (C. 16; L. 1-38):

> According to one embodiment, a frame-based template 808 is employed by the system 800. HTML frame based templates are advantageous for at least two reasons. First, a frame border 812 such as illustrated in FIG. 8 can be controlled by the hypertext transfer protocol services system 800. Second, the body 816 of the frame template 808 can be embedded or redirected from another source on the Internet.
>
> When the frame template 808 is retrieved, there will be various fields for which values must be inserted before the HTTP response 806 can be returned to the requester. The hypertext transfer protocol services system 800 queries the database 844 for data to insert into the various fields.
>
> The frame body 856 is preferably redirected from another source, so that when data is inserted into the fields of the original template 808, the result, now containing no blank fields in border 852 or body 856, can be returned as an HTTP response 806 to the requester.

In response to applicant's argument that Stanbach does not teach a message template that includes a plurality of media segment slots comprising video and audio segments, it is noted that Stanbach teaches (Fig. 10; C. 20, L. 51-60):

> The ads table 1060 is preferably configured to store the advertisements that will be inserted into the appropriate medium, as well as certain demographic

> information to which the advertisements are targeted. ... As for the advertisement file types, the ads table can include an HTML, a text, a graphic or a binary file (e.g., GIF, JPG, WAV, MOV, AVI, etc.)
>
> thereby indicating video and audio codes.

In response to applicant's argument that Stanbach does not teach a message template wherein video and audio segment slots overlap, it is noted that the "overlaping" features upon which applicant relies is not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988)and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, all references relate to delivery of targeted advertisements based on personal profiles of appropriate audience. The motivation to combine Stanbach with Chen to include defining interactive query responses for acquiring additional information about said target entity, would be to further delineate said general characteristics of said members of intended audience, thereby creating precise targeted advertisement. And motivation to combine Stanbach with Gerace to include that at the time the personalized message is transmitted said environmental status factors information is up-to-date information, would be to allow a user to select an appropriate theater based on user's preferences in time and the location of the show.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Igor Borissov whose telephone number is 571-272-6801. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Hayes can be reached on 571-272-6708. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

IB
7/25/2006

IGOR N. BORISSOV
PRIMARY EXAMINER